

REMARKS:

The Office action mailed August 3, 2006 has been received and carefully considered. Reconsideration of the application in view of the following is respectfully requested.

Claims 2 to 5 and 12 to 17 were indicated to contain patentable subject matter. Claims 2, 3, 12, 13 and 14 have been rewritten as independent Claims 33 to 37 respectively and Claims 4, 5, 15, 16 and 17 depend directly or indirectly from one of the new independent claims. These claims were modified where appropriate to make more definite in view of the issue raised with Claim 28.

Claim 28 was objected to as indefinite. Claim 28 has been amended to make the claim more definite. While this rejection was only applied to Claim 28, other claims that include similar language have also been amended. This change is supported by the specification and no new matter is submitted herewith.

Claims 10, 11, 18, 28, 30 and 32 were rejected as anticipated by Truscott. The Truscott device is directed to a vertebral replacement having a central body and upper and lower end caps. Applicant's device differs from the Truscott device in that applicant's interbody spacer has a central axis and is in touching relationship at a top and bottom of the spacer with respective adjacent vertebrae. The body in Truscott does not directly touch the vertebrae, but rather only the end caps do.

Furthermore, applicant's spacers have a front at one end of the central axis to which the end cap is joined. In Truscott the caps are joined to the top and bottom of the body and are not joined to the front. Claims 10, 28, 30 and 32 have been amended to emphasize this distinction and are now urged to distinguish over Truscott. Consequently, withdrawal of the rejection of these claims and the claims that depend from them as being anticipated by Truscott is respectfully requested.

The Examiner is invited to contact the undersigned by telephone, if prosecution of this application can be expedited thereby.

Respectfully Submitted,



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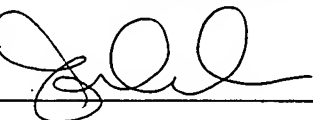
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Roger P. Jackson  
(Applicant)

By



November 3, 2006

(Date of Signature)